

Maryland Online Data Privacy Act (MODPA) - Restrictions on Sensitive Data Client Advisory

Overview

On October 1, 2025, the *Maryland Online Data Privacy Act of 2024 (MODPA)* takes effect. MODPA creates new restrictions on how businesses may collect, process, and share *Sensitive Data* about Maryland residents. Unlike many other state privacy laws, MODPA does not permit organizations to rely on consumer consent as a basis for processing Sensitive Data. Instead, the statute generally prohibits such processing unless it is *strictly necessary* to provide or maintain a product or service specifically requested by the individual. The law also includes exemptions for certain categories of data regulated under federal privacy laws such as HIPAA and GLBA, and customers will need to carefully evaluate the statute with their own legal and compliance teams to determine how its requirements apply to their programs.

Important: This client advisory is provided for general informational purposes only. It does not constitute legal advice, may not reflect the most recent developments in the law, and should not be relied upon as a substitute for advice from qualified counsel. Customers are responsible for obtaining their own legal guidance to ensure compliance with MODPA and other applicable laws.

Sensitive Data Defined

MODPA defines Sensitive Data broadly. It includes: racial or ethnic origin, religious beliefs, consumer health data (including gender-affirming care and reproductive or sexual health care), sex life, sexual orientation, status as transgender or nonbinary, national origin, citizenship or immigration status, genetic data, biometric data, personal data of children, and precise geolocation data within a 1,750-foot radius.

Enforcement Timeline

The statute takes effect on **October 1, 2025**. Enforcement by the Maryland Attorney General will begin on **April 1, 2026**, and will apply only to Sensitive Data collection and processing activities that occur on or after that date.

Key Provisions

- **No consent basis:** MODPA does not allow Sensitive Data to be collected on the basis of consumer consent. Common techniques such as opt-in banners, checkboxes, or privacy notice acknowledgments are not sufficient.
- **Strict necessity standard:** Sensitive Data may only be collected, processed, or shared where it is strictly necessary to provide or maintain the specific product or service requested by the consumer.

- **Impact assessments:** Processing of Sensitive Data is explicitly identified as an activity that presents a “heightened risk of harm.” Controllers are required to conduct and document a Data Protection Assessment (DPA) for each Sensitive Data processing activity. The assessment must weigh benefits against risks, evaluate necessity and proportionality, and describe safeguards. These DPAs are expected to be retained and made available for regulatory review.

Implications for Medallia Customers

Organizations using Medallia surveys and feedback platforms should review whether they collect Sensitive Data from Maryland residents. Many common demographic or identity questions, such as those relating to race, ethnicity, gender identity, sexual orientation, religion, or health, fall within the statutory definition. Because consent is not a permissible basis under Maryland law, customers will need to determine whether any continued collection of this information meets the “strict necessity” standard. Where Sensitive Data is processed, controllers are expected to reflect this in privacy notices and to maintain appropriate Data Protection Assessments.

Recommended Practices

Customers may wish to consider: reviewing survey instruments for Sensitive Data questions; assessing whether those questions are necessary in the Maryland context; updating privacy notices to reflect categories of Sensitive Data processed; documenting Data Protection Assessments where Sensitive Data processing occurs; and consulting legal and compliance teams for advice tailored to their specific use cases.

Key Points

- MODPA prohibits the collection, processing, or sharing of Sensitive Data absent strict necessity tied to the service requested.
- Consumer consent is not recognized as a lawful basis for Sensitive Data processing.
- The law becomes effective October 1, 2025; enforcement begins April 1, 2026 and applies prospectively.
- Customers are responsible for evaluating their own programs in light of MODPA's requirements and for obtaining legal guidance to determine compliance strategies.

Additional Resources

- [Maryland Online Data Privacy Act - Full Text](#)
- [Medallia Global Privacy Policy](#)